

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF NECESSITY BY THE COUNCIL OF  
THE CITY OF SANTA BARBARA FOR CERTAIN  
TEMPORARY EASEMENTS LOCATED ON THE REAL  
PROPERTY COMMONLY KNOWN AS 430 DE LA VINA  
STREET, SANTA BARBARA COUNTY ASSESSOR'S  
PARCEL NUMBER 037-203-021

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES HEREBY DETERMINE  
AND RESOLVE AS FOLLOWS:

SECTION 1. That on July 1, 2008, after fifteen days written notice to the owners of the property described hereafter, as they appeared on the last equalized County Assessment Roll, the City Council held a hearing for the purpose of allowing the owners thereof and other persons a reasonable opportunity to appear and be heard on the following matters:

- a. That the public interest and necessity require the proposed project;
- b. That the proposed project (as depicted on City Plan No. C-1-4198, a copy of which is permanently on file at the Public Works Department of the City of Santa Barbara) is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury;
- c. That the property described in the resolution is necessary for the proposed project;
- d. That the offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record;
- e. That the proposed project has been determined to be categorically exempt from further environmental review pursuant to California Environmental Quality Act regulations 15301 and 15320; and,
- f. Such other and further matters as may be referred to in California Code of Civil Procedure §1245.230.

SECTION 2. That the Council of the City of Santa Barbara does hereby find, determine and declare that:

- a. The public interest and necessity require the proposed project;
- b. The proposed project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury;
- c. All the property described in this resolution is necessary for the proposed project;
- d. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record (or the offer has not been made because the owner cannot be located with reasonable diligence); and

e. The proposed project was evaluated in the certified Lower Mission Creek Flood Control (LMCFC) Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (State Clearinghouse No. 1998101061) and an Addendum to the LMCFC Project EIS/EIR dated March 10, 2008, pursuant to California Environmental Quality Act (CEQA). The certified EIS/EIR determined that there would be unavoidable impacts associated with the project. The Addendum indicates that no new significant impacts or changes in circumstances or regulations would be anticipated since the original EIS/EIR was certified.

The taking of the easements described herein is authorized by Section 19 of Article I of the California Constitution, Section 37350.5 of the California Government Code, and Sections 1240.010 through 1240.125 of the California Code of Civil Procedure.

SECTION 3. That the Council of the City of Santa Barbara does hereby declare that it is the intention of said City to acquire said certain easements on the real property described herein in its name in accordance with the provisions of the laws of the State of California with reference to condemnation procedures.

SECTION 4. That the said certain easements on the real property are located in the City of Santa Barbara, County of Santa Barbara, State of California, and are more particularly described as follows:

#### I. EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT

The Council of the City of Santa Barbara, as a result of said hearing, has determined that the public interest and necessity require the acquisition by the City of an exclusive temporary construction easement, right of entry and permission to use the area as required for reasonable and necessary ingress and egress for all purposes necessary relative to surveys, inspections, excavations, construction, repair, removal, replacement and reconstruction of the Mission Creek bridge and all appurtenant public works improvements and related facilities, as shown on applicable civil design plans and described in the City's specifications prepared in connection with the proposed project, as may be amended by the City of Santa Barbara at any time and from time to time, and providing that the actual use by the City of the exclusive temporary construction easement shall be for a period of not more than 24 months, which shall begin on the date work actually commences to demolish, excavate, remove, construct, repair, replace or reconstruct the bridge and related public improvements and private improvements on and adjacent to the exclusive temporary construction easement, but providing, however, that in any event, said exclusive temporary construction easement shall expire on December 31, 2013, unless extended by specific written consent, and providing that the use of the exclusive temporary construction easement by City is for the specific purpose of facilitating all activities of City that may be necessary in the removal and subsequent replacement of the Mission Creek bridge and related public improvements, and for modifying, conforming and rehabilitating certain existing improvements affected by the proposed project, and providing all such modifications will

be made at City's sole cost and expense, and providing that the exclusive temporary construction easement may be used by City for placement of construction materials and parking of equipment being used for the proposed project, when removal and replacement of the bridge and related improvements require such uses, said exclusive temporary construction easement being referred to merely for convenient reference herein as Parcel No. 037-203-021-01, and more particularly described as follows:

A portion of land in the City of Santa Barbara, County of Santa Barbara, State of California, being a portion of the parcel of land described in the Grant Deed to Baltazar S. Moreno, Trustee of the Baltazar S. Moreno Living Trust dated July 2, 1998, and recorded May 18, 2006, as Instrument No. 2006-0040314 of Official Records, in the Office of the County Recorder of said County.

Said portion of land is described as follows:

The northeasterly 38.00 feet of said parcel as measured at right angles from the northeasterly line of said parcel.

#### EXCEPTING THEREFROM:

That portion of said land that lies within the easement granted to the County of Santa Barbara and the Santa Barbara County Flood Control and Water Conservation District in an Easement Deed recorded April 27, 1970, in Book 2307, Page 207 of Official Records, County of Santa Barbara.

Containing an area of approximately 1,057 square feet.

## II. NON-EXCLUSIVE TEMPORARY CONSTRUCTION EASEMENT

The Council of the City of Santa Barbara, as a result of said hearing, has determined that the public interest and necessity require the acquisition by the City of a non-exclusive temporary construction easement, right of entry and permission to use the area as required for reasonable and necessary ingress and egress for all purposes necessary relative to surveys, inspections, demolition, excavation, construction, repair, removal, replacement and reconstruction of the Mission Creek bridge and all appurtenant public works improvements and related facilities, and for the necessary surveys, inspections, demolition, excavation, construction, repair, removal, replacement, reconstruction and conformation of certain private improvements as shown on applicable civil design plans and described in the City's specifications prepared in connection with the proposed project, as may be amended by the City of Santa Barbara at any time and from time to time, and providing that the actual use by the City of the non-exclusive temporary construction easement shall be for a period of not more than 24 months, which shall begin on the date work actually commences to demolish, excavate, remove, construct, repair, replace or reconstruct the bridge and related public improvements and private improvements on and adjacent to the non-exclusive

temporary construction easement, but providing, however, that in any event, said non-exclusive temporary construction easement shall expire on December 31, 2013, unless extended by specific written consent, and providing that the use of the non-exclusive temporary construction easement by City is for the specific purpose of facilitating all activities of City that may be necessary in the removal and subsequent replacement of the Mission Creek bridge and related public improvements, and for modifying, conforming and rehabilitating certain existing improvements affected by the proposed project, and providing all such modifications will be made at City's sole cost and expense, and providing that the non-exclusive temporary construction easement shall not be used by City for any long-term placement of construction materials or for long-term parking of equipment being used for the proposed project, and providing that the City's use of portions of the non-exclusive temporary construction easement may be exclusive to the City only when ongoing construction activities required for the proposed project may by necessity preclude joint use of such portions of the non-exclusive temporary construction easement by others to minimize potential conflicts during construction activities, so as to avoid possible damage to personal property and vehicles caused by construction activities, and to reduce risk of possible injury to pedestrians in the area not associated with the replacement of the Mission Creek bridge and related public improvements, and providing that any necessary incidental and periodic exclusive use by City of portions of the non-exclusive temporary construction easement shall require City to provide reasonable indirect pedestrian access by others, including any occupants of the affected real property, including visitors, across other portions of the non-exclusive temporary construction easement, said non-exclusive temporary construction easement being referred to merely for convenient reference herein as Parcel No. 037-203-021-02, and more particularly described as follows:

A portion of land in the City of Santa Barbara, County of Santa Barbara, State of California, being a portion of the parcel of land described in the Grant Deed to Baltazar S. Moreno, Trustee of the Baltazar S. Moreno Living Trust dated July 2, 1998, and recorded on May 18, 2006, as Instrument No. 2006-0040314 of Official Records, in the Office of the County Recorder of said County.

Said portion of land is described as follows:

The southwesterly 6.00 feet of said parcel as measured at right angles from the southwesterly line of said parcel.

Containing an area of approximately 288 square feet.

SECTION 5. That the City Attorney is hereby authorized and directed to prepare, institute and prosecute in the name of the City, and is authorized to retain a law firm as Special Counsel for such proceedings, if necessary, in the proper Court having jurisdiction thereof, as may be necessary for the acquisition of the interests to said certain easements. Said counsel is also authorized and directed to obtain a necessary order of court granting to said City the right of immediate possession and occupancy of

said certain easements and, at the discretion of the City Attorney, to approve and execute a settlement agreement or stipulated judgment vesting title to the easements described herein on terms and conditions approved by the City Attorney for the best interests of the City.

SECTION 6. That the Environmental Quality Control Act of 1970, as amended, and guidelines adopted pursuant thereto, have been complied with insofar as the above project is concerned by the issuance of a Negative Declaration (SCH No. 1998101061, dated March 10, 2008), which is hereby approved and directed to be filed with the City Clerk.